

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
4:09-CR-13-FL-2

UNITED STATES OF AMERICA

v.

TERRAL LAMONT TYLER,

Defendant.

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**ORDER OF DETENTION PENDING
TRIAL**

This case came before the court today for hearing on the government's motion, pursuant to 18 U.S.C. § 3142(f), to detain defendant pending trial. At the hearing, defendant presented no evidence. The government, proceeding by proffer, provided a summary of the evidence supporting its case, which includes the facts set out above. For the reasons stated below, the government's motion is GRANTED.

Background

Defendant was charged by indictment on 25 February 2009 with the following offenses allegedly occurring on or about 11 February 2009: conspiracy to distribute and possess with the intent to distribute more than 500 grams of cocaine in violation of 21 U.S.C. § 846 (ct. 1); and possession with the intent to distribute more than 500 grams of cocaine, and aiding and abetting the same, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2 (ct. 2). The charges arise from a traffic stop on I-95 during which the cocaine subject to indictment was found in the car in which defendant was traveling with others. One of the other passengers gave a statement to the authorities identifying defendant as an active member of the conspiracy and describing his role in it.

Discussion

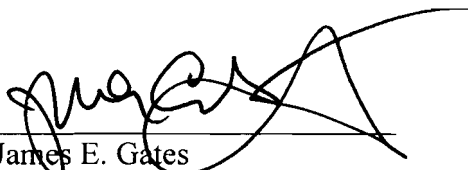
Based on the charges in the indictment, the case is subject to the rebuttable presumption in 18 U.S.C. § 3142(e)(3). The court finds that defendant failed to rebut the presumption of detention. In accordance with this presumption, the court finds that there is no condition or combination of conditions that will reasonably assure the appearance of defendant as required and the safety of any other person or the community before trial.

Even absent a determination that the presumption was not rebutted, the court finds that the government's proffer shows by clear and convincing evidence that there is no condition or combination of conditions that will reasonably assure the appearance of defendant as required or the safety of any other person and the community before trial. The basis for this alternative determination includes: the strength of the case against defendant; the nature of the offenses; and the substantial sentence defendant will likely receive if convicted.

Conclusion

IT IS THEREFORE ORDERED that defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

This, the 28th day of December 2010.


James E. Gates
United States Magistrate Judge